

UPDATES FROM INTER-GOVERNMENTAL ORGANIZATIONS

SYRIAN CONFLICT HIGHLIGHTS FUTILITY OF ARAB LEAGUE AND UN HUMAN RIGHTS ENFORCEMENT

Media reports and various foreign officials have all but confirmed a civil war erupting in Syria since the outbreak of protests in March 2011. However, the League of Arab States and the UN Security Council have each remained deadlocked, making futile and unsuccessful efforts to resolve the crisis. The doctrine of the *responsibility to protect*, adopted by the 2005 UN World Summit, the largest single gathering of heads of state and government, confers on the international community not only the right, but the responsibility to step in where a state is unwilling or unable to protect its people from systematic violations of human rights. This principle has been reaffirmed by the Security Council, but has only been invoked once: in March 2011 through a Security Council-authorized military intervention in Libya; the possibility of re-invoking it in the case of Syria has split the Security Council's permanent members. In 2004, the League of Arab States, a coalition of twenty-two Arabic-speaking countries, adopted the Arab Charter on Human Rights (ACHR), calling for freedom from, among other things, torture, arbitrary arrest and ill-treatment as well as the right to liberty, security and a fair trial. The ACHR's lack of enforcement mechanisms has rendered the Arab League virtually powerless as the situation in Syria deteriorates.

The 2005 World Summit Outcome Document, a non-binding statement of the international community's intent, states that when sovereign nations fail to protect their own people against genocide, war crimes, ethnic cleansing, and crimes against humanity, the international community has the responsibility to intervene under chapters VI and VIII of the UN Charter in order to stop atrocities. The Security Council, through resolution 1674, reaffirmed the basic principles of the *responsibility to protect* and recently invoked the doctrine when it authorized intervention in Libya. However, the legality of authorizing the military action in Libya and its success have been greatly

debated, namely among members of the Security Council themselves. The *responsibility to protect* doctrine allows the Security Council to invoke Chapter VII Article 42 of the UN Charter to employ the use of force only in limited cases of threats to international peace and security. However, the legality of an invocation of the *responsibility to protect* to authorize military interventions remains dubious under the UN Charter. Nevertheless, the *responsibility to protect* envisions multilateral action through diplomatic, humanitarian and other peaceful means where atrocities occur. Although Libya-style military intervention in Syria is improvident and highly unlikely, the international community has failed to employ even the most basic, peaceful means of ending the violence in Syria. As permanent members of the Security Council, Russia and China have twice used their veto power to reject resolutions condemning the violence of the Syrian government calling it an unacceptable attempt at regime change. Proponents of an active international role in Syria resorted to the General Assembly for a seemingly symbolic, non-binding, unenforceable resolution, overwhelmingly approved by member states, to condemn the violence.

Meanwhile, the League of Arab States attempted to exercise its authority under the ACHR by sending a mission of nearly 200 monitors to Syria to assess the situation. The mission suspended its work and issued its report after the 55 Gulf members withdrew in protest to continued government attacks. Although the Syrian authorities showed signs of complying with requests of the mission, including the release of many detainees and pulling back troops from residential areas, reports of violence and detentions continue, along with a string of deadly bombings, contributing to the fear that the fighting has taken on an increasingly sectarian tone. A recent Arab League proposal to constitute a peacekeeping mission made up of both Arab and UN troops was met with little enthusiasm. As US Secretary of State Hillary Clinton acknowledged, in accordance with UN practices, international

troops can only be deployed with the authorization of the host government. The Syrian government immediately rejected the proposition.

Continued protests and unrest across the Arab world, not limited to Syria, but also including Egypt, Yemen and Bahrain, demonstrate the futility of the ACHR, which demands respect for basic human rights from its members, but does not contain sufficient enforcement mechanisms. Article 4 of the ACHR, to which Syria is a party, calls on states that suspend any of its provisions to communicate their reasoning to the Secretary-General of the Arab League. The ACHR also created the Arab League Human Rights Committee to review country reports and make recommendations. However, lacking a method of enforcement, such as a court of human rights whose decisions are binding on member states, the Arab League is left to futile mechanisms such as monitoring missions when faced with potential violations of its human rights instrument.

With the UN reporting over 5,000 people killed since March 2011, the international community has failed to act with the requisite urgency to stop the violence. The UN High Commissioner for Human Rights, Navi Pillay, has called on the Security Council to refer Syria to the International Criminal Court for possible crimes against humanity. Members of the Free Syrian Army — opposition forces composed mainly of army defectors — have called on the West to establish safe havens, provide them with weapons, and create no fly-zones. Meanwhile, they have increased attacks on government forces and pro-government militias called *shabbiha*. The perpetuation of violence in Syria and several Arab countries demonstrates the futility of the Arab League in responding to crises in its member states and the necessity for enforcement mechanisms within its human rights treaty. Only through serious engagement between the Syrian stakeholders, the Security Council and the Arab League, within the mandate of the *responsibility to protect* and the ACHR, will a credible solution to the ongoing crisis in Syria emerge.

THE UN'S ONGOING STRUGGLE TO ADDRESS RESTRICTIONS ON BASIC FREEDOMS IN THE "WEST"

Over the past year and a half, peaceful demonstrations that quickly devolved into government violence and repression across the Middle East and North Africa necessitated UN involvement and international alarm over restrictions on basic human rights. However, recently the UN has also unexpectedly expressed its alarm over the whittling away of human rights in western participatory democracies including its host countries, highest contributors, and most powerful members. The *Occupy* movements in New York, Oakland, and London raised international concern over police brutality against freedom of association even warranting the attention and concern of the UN Secretary-General. Laws restricting freedom of assembly in Geneva and imposing restrictions on the right to vote in the U.S. have required UN organs and experts to address them through various human rights mechanisms including condemnation by UN Special Rapporteurs. Most recently, the U.S. prison system, which is a consistent subject of concern for human rights activists, has been referred to the UN Human Rights Council (Council). Under the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR) the rights to assembly, voting and freedom from torture are basic and universal. Although the UN's political bodies, namely the Security Council, mainly deal with peace, security, and human rights issues in developing nations and the non-West, the Human Rights Council, through its Special Rapporteurships, Universal Periodic Review (UPR), and Complaints Procedure, is dedicated to ensuring respect and compliance with human rights obligations regardless of where violations occur.

The UN, headquartered in New York, with its human rights organs based in Geneva, consistently hesitates to address human rights abuses in its host countries. However, when the *Occupy* movements in New York and Oakland were violently suppressed, journalists and activists pressured

the UN to respond, in accordance with Article 20 of the UDHR, which states that everyone has the right to freedom of peaceful assembly and association. Through his spokesperson, the UN Secretary-General reiterated that governments must respect their citizens' fundamental basic right of freedom of assembly. Article 21 of the ICCPR, to which both the U.S. and Switzerland are parties, enshrines the right to peaceful assembly, which can only be restricted in circumstances necessary to preserve public safety and order or to protect the rights of others. Through a sub-national referendum, Geneva recently passed a law approving significant restrictions on the right to freedom of assembly in the city. Such restrictions have the potential to violate freedom of assembly rights in the international bill of human rights represented by the UDHR and ICCPR.

The Human Rights Council and ICCPR contain several mechanisms for addressing human rights abuses. The Human Rights Committee, charged with enforcing the ICCPR, can address complaints from individuals only if states have signed on to its Optional Protocol. Neither the U.S. nor Switzerland has done so. However, that fact does not limit the Council's ability to utilize its Complaint Procedure which routinely addresses individual petitions regarding consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms. Petitioners are required to exhaust domestic remedies prior to filing a complaint with the Council. Therefore, as cases regarding the *Occupy* movements make their way through the U.S. courts, complaints with the Council in the near future are unlikely.

However, the door in the Human Rights Council is not closed to citizens of western democracies. The Council's Special Rapporteurs address human rights violations anywhere in the world related to their individual mandates. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association criticized the law approved in Geneva, saying it would have a "chilling effect" on freedom of assembly and expression.

Although *Occupy* has not yet made it to the UN, the Council has begun to address other issues that have frustrated activists due to the lack of redress in the U.S. The National Association for the Advancement of Colored People (NAACP) took its battle against voter identification laws, now passed in several states, to the Council in March. The NAACP says the laws undercut democracy by disenfranchising minorities and violate the voting rights protected by Article 25 of the ICCPR. Officials from the NAACP are asking the UN to share and encourage best practices for the world.

Through both the UPR Mechanism of the Council and the Special Rapporteur on Torture, the UN has addressed the situation of prisoners in the U.S. Recently, prisoners and advocates in California filed a petition with the Council and other UN organs asking the organization to conduct an inquiry into the solitary confinement procedures of some state prisons. Juan Méndez, the UN's Special Rapporteur on Torture recently said that solitary confinement should be banned by all states and may amount to torture. In addition, the Council's UPR process, which reviews the human rights situation in each country every four years, reviewed the U.S. in its 2010-2011 session. The report included recommendations that the U.S. comply with UN rules for treatment of prisoners and the UN Convention Against Torture. In its reply, the U.S. insisted that it continued to work on improving prison facilities. However the recent petition by the California advocates and prisoners makes clear that U.S. prison facilities continue to fall far short of international standards. Although western participatory democracies have their own mechanisms for addressing derivation from human rights norms and various grievances, the UN still provides a fallback option when the states' police power overrides human rights and courts fail to provide redress.

Marie Soueid, a J.D. candidate at the American University Washington College of Law, covers Intergovernmental Organizations for the Human Rights Brief.